

APPENDIX

EXHIBIT "A."

HOUSE BILL NO. 59.

A BILL in relation to persons, firms and corporations engaged in furnishing or required by law to furnish, natural gas for public use within this state, to provide remedies for the enforcement of this act, and penalties and punishment for violations thereof, and to extend the jurisdiction of the public service commission and of the courts of this state with respect thereto.

Be it enacted by the Legislature of West Virginia:

SECTION 1. That every person engaged in furnishing, or required by law, (whether statutory or common law) to furnish, natural gas for public use, or for the use of the public, or any part of the public, whether for domestic, industrial or other consumption, within this state, shall to the extent of his supply of said gas produced in this state (whether produced by such person or by any other person), furnish for public use within the territory of this state, and for the use of the public and every part of the public within the territory of this state in or from which such gas is produced, or through which said gas is transported, or which is served by such person, a supply of natural gas reasonably adequate for the purposes, whether domestic, industrial or otherwise, for which natural gas is consumed or desired to be consumed by the public, or any part of the public, within said territory in this state, and for which said consumer or consumers therein shall apply and be ready and willing to make payment at lawful rates.

SECTION 2. That in case any person engaged in furnishing, or required by law (whether statutory or common law) to furnish, natural gas for public use within this state, or for the use of the public or any part of the public within this state, shall have a production or supply of natural gas which is, or probably will be, insufficient to furnish for such use, (for the purposes, whether domestic, industrial or otherwise, for which natural gas is consumed by the public or any part of the public), within the territory in this state served by such persons, then and in that event the public service commission shall have authority, and the same is hereby conferred upon it, upon the application of any such person or any of his consumers within this state, and after due hearing upon notice and proof to the satisfaction of the commission that public convenience and necessity so require, to order any other person engaged in furnishing or required by law (whether statutory or common law) to furnish, natural gas for public use within this state, and producing or furnishing natural gas for public use in said territory or transporting the same through said territory, to furnish to such person having such insufficient production or supply, natural gas for the purpose of supplying such deficiency, at and during such times, upon and at such just and reasonable terms, conditions and rates, and in such amounts, as the commission shall prescribe. And whenever, after such hearing upon notice and proof, the commission shall determine that public convenience and necessity so require, the commission shall have authority to provide for and compel the establishment of a reasonable physical connection or connections between the lines, pipes or conduits of such persons having such excess supply of gas and the lines, pipes or conduits of the person having such deficiency of supply, and to require the laying and construc-

tion of such reasonable extensions of lines, pipes or conduits as may be necessary for the establishment of such physical connection or connections, and to ascertain, determine and fix the just and reasonable terms and conditions of such connection or connections, including just and reasonable rules and regulations and provisions for the payment of the costs and expense of making the same or for the apportionment of such cost and expense as may appear just and reasonable. *Provided, however,* that no person shall, by virtue of this section, be ordered to furnish natural gas to any other person so engaged in furnishing, or required by law to furnish, natural gas for public use, except to the extent that the person so ordered to furnish natural gas shall, at the time, have a production or supply of natural gas in excess of the quantity sufficient to furnish a reasonably adequate supply to his consumers within this state; nor shall any person, by virtue of this section, be ordered to furnish natural gas to any other person so engaged in furnishing or required by law to furnish, natural gas for public use in a territory within this state, if and when the said person having said excess, shall, to the extent of such excess, be ready and willing to furnish, and within such time as the commission shall prescribe actually furnish, to the consumers within said territory a reasonable adequate supply of natural gas.

SECTION 3. That in so far as the same shall not be in conflict with this act, all of the authority, powers jurisdiction and duties conferred and imposed on the public service commission by the act entitled, "An act to create a public service commission and to prescribe its powers and duties, and to prescribe penalties for the violations of the provisions of this act," passed February twenty-first, one thousand nine hundred and thir-

teen, as amended by the act entitled "An act to amend and re-enact sections one, two three, four, five, nine, ten, fourteen, fifteen and twenty-two, of chapter nine of the acts of one thousand nine hundred and thirteen, creating a public service commission, prescribing its powers and duties, and penalties for violation of the provisions of said chapter, and to add thereto six sections to be known as sections twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, enlarging the powers and duties of said public service commission, prescribing additional penalties and giving to the commission power to punish for contempt," passed February tenth, one thousand nine hundred and fifteen, are hereby conferred and imposed on the public service commission in respect to the subject-matter of this act, or any part thereof.

SECTION 4. That in case of violation of any provision of this act any person aggrieved or affected thereby may complain thereof to the public service commission in like manner, and thereupon such procedure shall be had, as is provided in respect to other complaints to or before said commission, and all such proceedings and remedies may be taken or had for the enforcement or review of the order or orders of said commission, and for the punishment of the violation of such order or orders, as are provided by law in respect to other orders of said commission. In case of the violation of any provision of this act, the public service commission, or any person aggrieved or affected by such violation, in his own name, may apply to any court of competent jurisdiction by a bill for injunction, petition for writ of mandamus or other appropriate action, suit or proceeding, to compel obedience to and compliance with this act, or to prevent the violation of this act, or

any provision thereof, pending the proceedings before said commission, and thereafter until final determination of any action, suit or proceeding for the enforcement or review of the final order of said commission; and such court shall have jurisdiction to grant the appropriate order, judgment or decree in the premises.

SECTION 5. That if any person, subject to the provisions of this act shall fail or refuse to comply with any requirement of the commission hereunder, such person shall be subject to a fine of not less than one hundred dollars nor more than five hundred dollars for each offense; and such person, or the officers of the corporation, where such person is a corporation, may be indicted for their failure to comply with any requirement of the commission under the provisions of this act, and upon conviction thereof, may be fined not to exceed five hundred dollars, and in the discretion of the court, confined in jail not to exceed thirty days. Every day during which any person, or any officer, agent or employe of such person shall fail to observe and comply with any order or direction of the commission, or to perform any duty enjoined by this act, shall constitute a separate and distinct violation of such order or direction of this act, as the case may be.

SECTION 6. That any person claiming to be damaged by any violation of this act may bring suit in his own behalf for the recovery of the damage from the person or persons so violating the same in any circuit court having jurisdiction. In any such action the court may compel the attendance of the person or persons against whom said action is brought, or any officer, director, agent or employe of such person or persons, as a witness, and also require the production of all books, papers and

documents which may be useful as evidence, and in the trial thereof such witness may be compelled to testify, but any such witness shall not be prosecuted for any offense concerning which he is compelled hereunder to testify.

SECTION 7. That the word "person" within the meaning of this act shall be construed to mean, and to include, persons, firms or corporations.

SECTION 8. That the sections, provisions and clauses of this act shall be deemed separable each from the other, and also in respect to the persons, firms, corporations and consumers mentioned therein or affected thereby, and if any separable part of this act be, or be held to be unconstitutional or for any reason invalid or unenforceable, the remaining parts thereof shall be and remain in full force and effect.

SECTION 9. That all acts and parts of acts in conflict with this act are hereby repealed.

Digest of Statute.

SECTION I.

Every public service natural gas company

though its business be limited in territory

or

(a) limited to domestic consumers in West Virginia and other States,

or

(b) limited to industrial consumers in West Virginia and other States,

or

(c) limited to other consumers in West Virginia and other States,

nevertheless, without regard to its charter limitations: limitations of territory, or limitations of business, to the extent of its supply produced in West Virginia,

shall furnish a supply reasonably adequate to all three classes of consumers, domestic, industrial or otherwise:

(a) throughout the whole territory of the State of West Virginia,

or

(b) within the territory of the State of West Virginia in or from which such gas is produced,

or

(c) within the territory of West Virginia through which said gas is transported,

or

(d) within the territory of West Virginia which is served by such company;
and these classes of consumers throughout the State of West Virginia shall be furnished with a reasonably adequate supply for all purposes for which gas is consumed,

or

for which gas is desired for consumption, and for which said purposes said consumers shall apply and be ready to pay lawful rates;

And this in utter disregard:

- (A) that any or all of this gas may have been sold to consumers in other States;
- (B) that this gas is in transit to such consumers across State lines;
- (C) that the gas company is under contract to deliver and transmit such gas across the State line;
- (D) that this demand will destroy the business in other States;
- (E) that the plant and investment of the gas company to a large extent will be destroyed;

- (F) that enormous financial losses will be suffered by consumers in other states and their lives will be endangered and they will suffer in health, comfort and convenience;
- (G) that the business of every gas company in the State will be spread out over the whole State;
- (H) that preference to domestic consumers against industrial and other consumers will be prevented;
- (I) that new, unusual and wasteful uses of gas will be encouraged;
- (J) That no gas company will know from day to day and week to week and month to month what will be the demands upon its lines, what territory it will be called upon to supply, or to what uses such gas will be applied.

SECTION II.

Whenever any public service natural gas company

has an insufficient supply for all purposes, domestic, industrial or otherwise, for its consumers within the territory served by it,

Then and in that event the Public Service Commission of West Virginia, on proof that public convenience and necessity so require,—

May order

any other public service natural gas company producing or furnishing gas in said territory,

or

transporting the same through said territory, even though it is not engaged in supplying gas to that territory, to make up such deficiency

to

the other gas company so deficient,

during such times and on such just and reasonable terms, conditions and rates and in such amounts as the Commission may prescribe,

and

When the Commission decides that public convenience and necessity require,

it may compel connection between the pipe lines and conduits of the two companies,

and may compel laying and construction of lines for such connections,

on the terms, conditions, rules and regulations, and provisions for payment of costs and expenses, as the Commission determines.

PROVIDED:

No such order shall be made
except to the extent

The helping company

has an excess over amount required to supply its consumers in West Virginia, whether it has enough to supply its consumers in other States or not,

or

is ready and willing to furnish that same territory and give consumers therein a reasonably adequate supply;

And this in utter disregard,—

- (A) of the charter rights and obligations of the company so held up; and that it may have carefully refrained from undertaking to supply some populous city it knew it could not for various reasons supply.
- (B) that any or all of this gas has been sold to consumers in other States;
- (C) that it is in transit to such consumers across State lines;
- (D) that the gas company is under contract to deliver and transmit such gas across the State line;
- (E) that this intermittent demand will destroy the business in other States;
- (F) that the plant and investment of the gas company to a large extent will be destroyed;
- (G) that enormous financial losses will be suffered by consumers in other States and their lives will be endangered and they will suffer in health, comfort and convenience;

(H) that no gas company will know from day to day and week to week and month to month what will be the demands upon its lines, what territory it will be called upon to supply, or to what uses such gas will be applied.

SECTION IV.

In case of violation party aggrieved
may apply for injunction or mandamus or other
action to enforce orders
pending proceedings original or on review.

SECTION V.

For failure or refusal to comply with any requirement
of Commission, even pending review—

party offending subject to
fine \$100 to \$500 each offence;
may also be indicted and on conviction fined
not to exceed \$500,
imprisoned not beyond 30 days;

every day separate offence;

Thus during time in which appeal may be pending
or other proceedings for review,—

For thirty days
can be fined \$15,000
jailed 900 days, nearly three years.

SECTION VI.

Damaged party may sue and recover damages.